

SUPPORTING STATEMENT

**Affidavit of Support Under Section 213A of the Act, (Form I-864),
Contract Between Sponsor and Household Member, (Form I-864A),
EZ Affidavit of Support under Section 213 of the Act, (Form I-864EZ), and
Intending Immigrant's Affidavit of Support Exemption, (Form I-864W)**

OMB No. 1615-0075

A. JUSTIFICATION:

1. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 created section 213A of the Immigration and Nationality Act (Act). Section 213A requires most family-based and certain employment-based immigrants to have the petitioning relative execute an Affidavit of Support on their behalf. The Affidavit of Support sponsor must maintain a household income of at least 125 percent of the Federal poverty guidelines. The Affidavit of Support is a legally binding document which may be enforced in Federal or State court, if the sponsored alien receives any means-tested public benefits. The information collection required on Form I-864 (or Form I-864EZ, if the applicant qualifies to use it) is necessary for immigration and consular officers and the sponsor to determine whether the sponsor can meet the minimum income requirements. In addition, the execution of the Affidavit of Support creates a contract between the sponsor and the sponsored alien and any entity that provides means-tested public benefits to the sponsored alien. The execution of the Contract Between Sponsor and Household Member creates a similar contract that includes also the household member. The Department of Homeland Security (DHS), U.S Citizenship and Immigration

Services (USCIS) must maintain Forms I-864, I-864EZ and I-864A in the event the obligation must be enforced by civil action. In addition, the DHS is created Form I-864EZ to be a quicker and easier form for certain sponsors to comply with the 213A requirements. This form will be much easier for those who qualify for its use, and much easier for the DHS to adjudicate. Finally, the DHS has created Form I-864W, which is a simple, 1 page form used for intending immigrants who are exempt from the 213A requirements in which they can clearly identify the reason for the exemption for the adjudicator.

2. **Form I-864.** The data collected on Form I-864 will be used by the DHS to determine whether the sponsor has the ability to support the sponsored alien under section 213A of the Immigration and Nationality Act. This form serves the purpose of standardizing the evaluations of the sponsor's ability to support the sponsored alien and ensures that basic information required to assess eligibility is provided by petitioners.

Form I-864A. The Form I-864A is a contract between the sponsor and the sponsor's household members. It is only required if the sponsor used income of his or her household members to reach the required 125 percent of the Federal poverty guideline. The contract holds these household members jointly and severally liable for the support of the sponsored immigrant. The information collection required on Form I-864A is necessary for public benefit agencies to enforce the Affidavit of Support in the event the sponsor used income of his or her household members to reach the required income level and the public benefit agencies are requesting reimbursement from the sponsor.

Form I-864EZ. The Form I-864EZ will be used by the DHS in exactly the same way is Form I-864, however, the DHS will collect less information from the sponsors as less information will be needed from

those who qualify in order to make a thorough adjudication.

Form I-864W. The Form I-864W is a form that will be used by the DHS to determine whether the intending immigrant meets the criteria for exemption of the 213A requirements. This form collects the immigrant's basic information, such as name and address, the reason for the exemption, and accompanying documentation in support of the immigrant's claim that they are not subject to 213A.

Third Party Collection. There is also a third party information collection requirement placed on agencies in order for them to have the option to request reimbursement, from the sponsor when the agency provides a means-tested benefit to a sponsored immigrant. The request for reimbursement shall specify the date the sponsor's Affidavit of Support was received by the DHS, the sponsored immigrant's name, alien registration number, address and date of birth, the types of means-tested public benefit that the sponsored immigrant received, the dates the sponsored immigrant received the means-tested public benefit, and the total amount of the means-tested public benefit received. This is necessary in order for the Affidavit of Support to be considered "enforceable". Moreover, if the agency chooses to sue the sponsor, and obtains a final civil judgement against the sponsor, the agency is required to file a certified copy of the final civil judgement with the DHS. This is necessary for the DHS to fulfill the statutory requirements of reporting to Congress the number of sponsors in compliance with the financial obligations of the Affidavit of Support.

3. The use of Forms I-864, I-864EZ, I-864A, and I-864W provide the most efficient means for collecting and processing the required data. In this case the DHS does not employ the use of information technology in collecting and processing information. Currently, the DHS does not have the automated

capability in place to accept electronic submission of applications. However, the forms are available on the DHS website for downloading.

4. A review of the Forms Inventory Report revealed no duplication of effort, and there is no other similar information currently available which can be used for this specific purpose.
5. This collection of information does not have an impact on small businesses or other small entities.
6. If the information is not collected, compliance with the section 213A of the INA would not be met. Without Form I-864, the Affidavit of Support, (and Form I-864EZ) the DHS will not be able to determine whether the sponsor could meet the 125 percent threshold of the Federal poverty guidelines. Without Form I-864A, the Contract Between Sponsor and Household Member, the affidavit would not be enforceable against the sponsor's household members when their income is used to assist the sponsor in meeting the required income level. Without Form I-864W, intending immigrants who were exempt from the 213A requirements would have no way of clearly establishing those facts to an adjudicator. Additionally, the DHS would not be in compliance with section 213A(i)(3)(A) of the INA that requires the Attorney General report to Congress the number of sponsors in compliance with the financial obligations of the Affidavit of Support.
7. The special circumstances contained in item 7 of the supporting statement are not applicable to this information collection.
8. The DHS (the former Immigration and Naturalization Service) published a notice in the Federal

Register on December 14, 2005, at 70 FR 74029 soliciting public review and comment on the proposed information collections for a period of 60 days. No comments have been received.

9. The DHS does not provide payment or gifts to respondents in exchange for a benefit sought.

10. There is no assurance of confidentiality.

11. There are no questions of a sensitive nature.

12. Annual Reporting Burden:

	I-864	I-864A	I-864EZ	I-864W
No. of respondents	439,500	215,800	100,000	1,000
Responses per respondent	1	1	1	1
Hours per response	6	1.75	2.5	1
Annual Reporting Burden	2,637,000	377,650	250,000	1,000
Form Total Burden Hours	2,637,000	377,650	250,000	1,000
Total Public Cost	\$3,265,650			

The projected hours per response for these collections were derived by breaking the process into three basic components:

	I-864	I-864A	I-864EZ	I-864W
Learning about law and form	75	20	30	15
Completion of Form	90	55	40	15
Assembling and Filing Form	195	30	80	30
Total	360 (6 hrs.)	105 (1.75 hrs.)	150 (2 hrs.)	60 (1 hr.)

I-864 Reporting Burden.

Total Annual Reporting Burden Hours for the Form I-864 is 2,637,000 hours. This figure was derived by multiplying the number of principal respondents (439,500) x the frequency of response (1) x the hours per response (6). Please note that the number of respondents was determined by multiplying the number of individuals previously reported x 1.3, since it has been determined that approximately one-third of all individuals who complete Form I-864 need to have a joint sponsor complete a separate Form I-864 in order to meet the income requirement. Also note that the hours per response is increased from previous submissions. This is not due an increasingly complicated form, in fact, the time to complete the form has been decreased. However, it has been determined that previous estimates as to the time to assemble all of the required documentation, such as tax returns, was previously underestimated. This version corrects this oversight.

I-864A Reporting Burden.

The Total Annual Reporting Burden Hours for the Form I-864A is 377,650 hours. To figure out the number of individuals who use Form I-864A annually, we examined our past receipts that indicate that approximately 40% of sponsors include the income of household members (415,000 x .4). The total reporting burden was derived at by multiplying the number of individuals (166,000) by the respondent factor (1.3) for an increased respondent rate of 215,800, since joint sponsors also may use the income of household members, x the number of responses per respondent (1) x the hours per response (1.75).

I-864EZ Reporting Burden.

Total Annual Reporting Burden Hours for the Form I-864 is 250,000 hours. This figure was derived by multiplying the number of principal respondents (100,000) x the frequency of response (1) x the hours per response (2.5). Please note that the 100,000 figure is our best estimate as to the number of sponsors who will both qualify and use this new, easier, Form I-864EZ instead of Form I-864. This number has been subtracted from previous estimates of people who submitted Form I-864—since sponsors will not be filing both forms.

I-864W Reporting Burden.

Total Annual Reporting Burden Hours for the Form I-864 is 1,000 hours. This figure was derived by multiplying the number of estimated respondents (1,000) x the frequency of response (1) x the hours per response (1). It is anticipated that only 1,000 will qualify and use this form, but this will make the immigration process for these 1,000 much easier as the I-864 requirement can be dispensed with immediately.

Third Party Reporting Burden. It is expected that the third party information collection requirements will only be completed on rare occasions since: (1) With few exceptions, new immigrants are barred from most Federal means-tested benefits for the first five years in the United States; (2) Even after the first five years in the United States, sponsored immigrants will only be eligible for means-tested benefits after a benefit agency deems all of the income and resources of the sponsor to be available to the sponsored immigrant; (3) Not all agencies will choose to request reimbursement from the sponsor if the sponsored immigrant does receive means-tested public benefits; and (4) Not all agencies will choose to sue the sponsor if the sponsor fails to reimburse the agency for the benefit given to the sponsored alien.

Public Cost

The estimated annual public cost of this information collection is \$32,656,500. This figure is based on the number of respondents for Form I-864 principals (439,500) x response time of 6 hours x the average hourly rate of \$10; plus 215,800 respondents for Form I-864A x response time of 1.75 hours x \$10; plus 100,000 respondents for Form I-864EZ x response time of 2.5 hours x \$10; plus 1,000 respondents for Form I-864W x response time of 1 hour x \$10.

13. There are no capital or start-up costs associated with this information collection. Any cost burden to respondents as a result of this collection are identified in item 14. There are no fee charges.

14.	<u>Annualized Cost Analysis:</u>	<u>I-864, I-864A, I-864EZ, I-864W</u>
	Printing Cost	\$ 687,200
	Collecting and Processing	\$ 30,202,200
	Total Cost to Program	\$ 30,889,400
	Fee Charge	0
	Total Annual Cost to Government	\$ 30,889,400

Government Cost

The estimated cost to the Government of the information collection in Forms I-864, I-864A, I-864EZ, and I-864W is \$30,889,400. This figure is calculated by using the estimated number of respondents (439,500 + 215,800 + 100,000 + 1,000) x government response time (1 hour) x \$40 (suggested average hourly rate for clerical, officer, and supervisory time with benefits). This figure also includes the estimated overhead cost for printing, stocking, and distributing the forms which is \$687,200. The overhead cost for printing, stocking, and distributing the form. (The printing cost did

not increase proportionately with the increased number of forms because, in the case of Form I-864EZ, one form merely substitutes for another (Form I-864) and it has been determined that approximately one-third of the respondents may be acquiring the forms by use of the DHS website. The previous printing cost figure remains.

15. There has been an increase in the estimated burden hours previously reported for this collection from 2,443,350 to 3,265,650. It has been determined that approximately one third of all applicants who complete Form I-864 need to have a joint sponsor complete a separate Form I-864 in order to meet the income requirements, thereby increasing the total number of respondents. Additionally, experience has shown that respondents are taking longer to assemble the required documentation in order to properly submit the form than originally anticipated. Part of this, however, is offset by the fewer hours many applicants will need to complete Form I-864EZ, which, if they qualify, they may use instead of Form I-864. This increase is considered an adjustment.
16. DHS does not intend to employ the use of statistics or the publication thereof for this collection of information.
17. In consideration of the large number of forms to be printed annually (at least 1 million copies of a 14 page document(s)) and the importance of the continual operation of the program, the DHS is requesting approval to not display the expiration date for OMB approval of these information collections. The DHS believes it sagacious and extremely cost prohibitive to destroy, amend, reprint and distribute otherwise usable forms with the exception of outdated expiration dates. Therefore, the DHS requests that the display of the expiration date be waived.

18. The DHS does not request an exception to the certification of this information collection. See attached item 19 of Form OMB 83-I.

B. Collection of Information Employing Statistical Methods.

Not Applicable.

C. Certification and Signature.

PAPERWORK CERTIFICATION

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with including paperwork regulations, statistical standards or directives, and any other information policy directives promulgated under 5 CFR 1320.

Richard A. Sloan

Director,

Regulatory Management Division

Date